

October 8, 1999

Commissioner's Bulletin No. B-0050-99

**W. C. Circular Letter No. 696
Retrospective Rating Article No. 189**

TO ALL INSURANCE COMPANIES, CORPORATION, EXCHANGES, MUTUALS, RECIPROCALLS, ASSOCIATIONS, LLOYDS, OR OTHER INSURERS WRITING WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE IN THE STATE OF TEXAS, THEIR AGENTS AND REPRESENTATIVES AND TO THE PUBLIC GENERALLY:

RE: AMENDMENTS TO RULES CONTAINED IN THE *TEXAS BASIS MANUAL OF RULES, CLASSIFICATIONS AND EXPERIENCE RATING PLAN FOR WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE*

Notice is hereby given that the Commissioner of Insurance has entered Commissioner's Order No. 99-1370 dated October 1, 1999, that amends the *Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance* (the Manual). The purpose of these amendments to the Manual is to add, amend and delete rules as necessary, to eliminate conflicting language within the Manual and to provide clarification to rules, endorsements and forms by amending the language.

Enclosed herewith is Exhibit 1 that identifies each change adopted to the rules, experience rating plan, endorsements and forms.

These changes are adopted effective for workers' compensation policies written with an effective date on and after January 1, 2000.

Copies of the revised Manual pages will be sent free of charge to those who have purchased a copy of the Manual from the Texas Department of Insurance (TDI). The Manual may be purchased from the TDI for \$30.00 per Manual in accordance with the order information sheet attached to this letter. The Manual is also available to be downloaded from the TDI Web Page (www.tdi.state.tx.us).

Yours very truly,

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**ADOPTED CHANGES TO THE TEXAS BASIC MANUAL OF RULES,
CLASSIFICATIONS AND EXPERIENCE RATING PLAN FOR
WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE**

ADOPTED CHANGES TO THE RULES

CURRENT PAGE #	CURRENT RULE #	CHANGE	REASON FOR CHANGE
R-1	I D.	Add additional paragraph at the end of Section D: <u>All rules in this manual, including the rules in the Experience Rating Plan, are intended to be read in harmony with the language in the workers' compensation policy and the endorsements adopted by the Commissioner of Insurance, and workers' compensation laws as contained in Title 5, Subtitle A, Labor Code and Subchapter D, Chapter 5, Insurance code. No rule in this manual, including the Experience Rating Plan, should be read to override a provision of the insurance policy or law to the contrary.</u>	Clarify that rules in the WC Manual are to be read in harmony with standard policy language, adopted endorsements, the workers' compensation law and the Texas Insurance Code.
R-5	III E.	Delete maintenance tax surcharge from the calculation of Total Estimated Policy Cost.	The rule pertaining to the Maintenance Tax Surcharge is being deleted and the calculation of total estimated policy cost is amended accordingly.
R-8	IV C.3.d.	Change the classification code in the example from Code 5183 to Code 4034	Code 5183 no longer includes shop operations, so example needs to involve classification code that includes shop operations.
R-12	V B.3.	Insert <u>as a supplement to the employees wages</u> to further define safety awards that are excluded from remuneration	Clarify that a safety award as a supplement to an employees' wages is not considered remuneration for purposes of calculating workers' compensation premium.
R-14	V F.3.a.	Add <u>In the absence of verifiable payroll records</u> at the beginning of paragraph to show how the basis of premium is determined for leased or rented vehicles that operate under Code 7382 – Taxicab Co. and Limousine Co.	Clarify that for leased or rented vehicles that operate under code 7382 – Taxicab Co. and Limousine Co. the formula in the Manual is used to determine the basis of premium if there are no verifiable payroll records.
R-15	VI D.3.	Add the words <u>adjustment by</u> in the first sentence and delete adjustment at the end of that sentence. Add <u>The expense constant is not used to determine premium discount, experience rating modification, retrospective rating or premium incentives for small employers</u> to the end of the paragraph.	Clarify that the expense constant is not included in making some calculations in determining workers' compensation premium.
R-16	VI E.1.	Add <u>one-year</u> before the words policy period in the 3 rd sentence and delete not longer than one year in same sentence. Add <u>The minimum premium shall be prorated on policies issued for a period less than one year.</u>	State that minimum premium is pro-rated if a workers' compensation policy is issued for less than a year.

CURRENT PAGE #	CURRENT RULE #	CHANGE	REASON FOR CHANGE
R-17	VI I.	Delete entire section on Texas Maintenance Tax Surcharge Recoupment	Rule is not needed as there is no more maintenance tax surcharge to be recouped from policyholders.
R-17	VI J.	Renumber from <u>J.</u> to <u>I.</u>	Deletion of section on Texas Maintenance Tax Surcharge Recoupment causes subsequent sections to be renumbered.
R-17	VI J.	Add paragraph to Section: <u>All schedule ratings used in calculating premium must be supported by documentation maintained by the insurance company.</u>	State that insurance companies are responsible for maintaining documentation to support schedule ratings.
R-39	XVII A.	Add <u>payrolls produce a Texas</u> and substitute <u>of for is.</u>	Editorial change
R-39	XVII E.	Add new section <u>SHORT TERM OR CANCELLED POLICIES</u> as follows: <u>If the policy is written for a period less than one year, or if the policy is cancelled prior to the expiration date, the premium shall be projected to a one-year policy term to determine eligibility for the premium incentive for small employers.</u>	State the situations in which premium is projected to an annual basis to determine eligibility for the premium incentive for small employers.
R-40	XVIII D.2.c.	Add <u>.</u> after the word including	Editorial change
R-41	XVIII D.3.	Add <u>.</u> after the word include	Editorial change
R-43	XIX D.1.a.b.c.	Add parentheses around the endorsement numbers in the rules and update the endorsement for the aggregate deductible option and the per accident/aggregate deductible option.	Editorial change
R-44	XIX D.2.a.	Add <u>.</u> after the word when	Editorial change
A-1	A. 6. (r)	Delete wording <u>Maintenance tax surcharge recoupment, if applicable</u>	Removal of reference to Maintenance Tax Surcharge which was removed from the rules.
A-2	B. 3.	Delete wording <u>provided a duplicate memorandum, such as is supplied the Home Office, describing the operations is furnished to this Department. Such policy shall carry a provision to the effect that the classifications appearing thereon are subject to approval by this Department</u> and add the following sentence to the end of the paragraph: <u>Classifications may be subject to change by this Department.</u>	Eliminate obsolete language and clarify that classifications are subject to change by this Department.
A-3	E. 4.	Add <u>(WC 00 03 02)</u> after Designated Workplaces Exclusion Endorsement	Editorial change

ADOPTED CHANGES TO THE EXPERIENCE RATING PLAN

CURRENT PAGE #	CURRENT RULE #	CHANGE	REASON FOR CHANGE
ER-2	Section I C.5.	Delete <u> </u> and add <u> </u>	Editorial change
ER-8	Section IV D.2.	Correct spelling of word modifier in last sentence of last paragraph.	Editorial change
ER-8	Section IV D.3.	Delete the word <u>be</u> and add the word <u>is</u> in (1) of the Note at the end of subsection	Editorial change
ER-9	Section V A. Exception (b) (v)	Delete <u>U.S.</u> to correct reference to L. & H. W. Act	Editorial change
ER-9	Section V A. Exception (b) (vi)	Delete <u>Maintenance Tax Surcharge</u> as item not subject to experience rating	Reference to Maintenance Tax Surcharge needs to be deleted.
ER-11	Section V G. 2.	Insert <u>on</u> in the first paragraph of subsection.	Editorial change
ER-12	Section V H.	Add new subsection <u>PRELIMINARY MODIFIERS</u> as follows: <u>A preliminary modifier shall be issued using the current experience rating values when new experience rating values, to be effective on or before the anniversary rating date, are not yet approved by the Commissioner. This preliminary modifier shall be applied to the policy until the modifier is recalculated and issued using the approved new rating values. Note: If the approved new rating values differ from those values used in the calculation of the preliminary modifier, the experience modifier shall be recalculated and Rule G. of this Section applies.</u>	This rule is needed in case new experience rating values have not been approved by the Commissioner at the time the renewal experience modifier is being calculated.
ER-13	Section VI D.1.	Delete <u>United States</u> two times in the 4 th sentence of this paragraph.	Editorial change
ER-17	Section VIII A.1. and B.2.	Delete <u>United States</u> in three places in these paragraphs	Editorial changes
ER-S-1	F.	Add the following paragraph at the end of this subsection: <u>"Test modifiers" cannot be negotiated and cannot be used in determining premium.</u>	Clarify that test modifiers for interstate rated risks cannot be negotiated or used in calculating premium.

ADOPTED CHANGES TO ENDORSEMENTS

CURRENT ENDORSEMENT #	REVISED ENDORSEMENT #	CHANGE	REASON FOR CHANGE
WC 00 03 03	N/A	Delete Employers Liability Coverage Endorsement	Rules were amended effective 1-1-94 to delete provision allowing employers liability coverage without workers' compensation coverage. Endorsement was not deleted at that time.

CURRENT PAGE #	CURRENT RULE #	CHANGE	REASON FOR CHANGE
WC 42 03 01 E	WC 42 03 01 F	Add following language to Part Six – Conditions D. 3. b. <u>Misrepresentation of the amount of payroll for purposes of premium calculation.</u>	Conform the language in the standard workers' compensation policy to the language in the workers' compensation law.
WC 42 03 01 E	WC 42 03 01 F	Add <u>for which you seek coverage</u> in Part Six- Conditions D. 3. d.	Conform the language in the standard workers' compensation policy to the language in the workers' compensation law.
WC 42 03 01 E	WC 42 03 01 F	Renumber Part Six – Conditions D. 3. b. through d.	Addition of new Part Six – Conditions D. 3. b. requires remaining subsections to be renumbered.
WC 42 03 03 A	WC 42 03 03 B	Delete 406.097 of SB 413, 74th Legislative Session and add <u>406.098</u> and add <u>Texas</u> in Notes: 1. of the endorsement.	Correct the reference to the Texas Labor Code and make an editorial change.
WC 42 03 04	WC 42 03 04 A	Delete Minimum Premium and renumber 5 to <u>4</u> .	Conform endorsement to language in the rule, which deleted reference to a minimum premium effective 1-1-94.
WC 42 03 05	WC 42 03 05 A	Delete to Article 8308 R.C.S. of Texas, 1925 and add <u>Section 406.091, Texas Labor Code</u> , to Notes: 1. of the endorsement.	Correct the reference to the Texas Labor Code.
WC 42 03 06 A	N/A	Delete entire endorsement	Delete endorsement since rule is being deleted.
WC 42 06 03 A	WC 42 06 03 B	Add <u>we cancel</u> and delete is cancelled from item 4 of the endorsement. Add the following language to item 4: <u>If you cancel the policy, the aggregate deductible amount shown in the Schedule below will not be reduced to a pro rata amount based on the time this policy was in force.</u>	Eliminate conflict between language contained in Rule X of the W. C. Manual and language in the endorsement pertaining to not allowing a reduction in the aggregate deductible if the policy is cancelled by the policyholder.
WC 42 06 04 A	WC 42 06 04 B	Add <u>we cancel</u> and delete is cancelled from item 5 of the endorsement. Add the following language to item 5: <u>If you cancel the policy, the aggregate deductible amount shown in the Schedule below will not be reduced to a pro rate amount based on the time this policy was in force.</u>	Eliminate conflict between language contained in Rule X of the W. C. Manual and language in the endorsement pertaining to not allowing a reduction in the aggregate deductible if the policy is cancelled by the policyholder.

ADOPTED CHANGES TO FORMS SECTION

The standard workers' compensation policy as adopted by the Commissioner of Insurance under Commissioner's Order No. 95-1066 and amended by nunc pro tunc Commissioner's Order No. 95-1309 dated December 12, 1995 is being added to the Forms Section of the Manual. Several editorial changes have been made to this version of the policy form that were not corrected in the nunc pro tunc order dated December 12, 1995.

Add the Information Page as previously adopted to the Forms Section of the Manual.